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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/613,961	07/11/2000	A. Bart Flick	06772-0110	1541

7590 06/12/2002

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EXAMINER

LEWIS, KIM M

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 06/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Applicant(s) 09/613,961	Applicant(s) FLICK, A. BART
	Examiner Kim M. L. wis	Art Unit 3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 19 April 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 20-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input checked="" type="checkbox"/> Other: <i>Detailed Action</i> |

Art Unit: 3761

DETAILED ACTION

Response to Amendment

1. The amendment filed on 4/19/02 has been received and made of record in the application file wrapper. Claims 1, 3 and 19 have been amended. Claims 20-22 have been added. Claims 1-22 are pending in the instant application.

Election/Restriction

2. Newly submitted claims 20-22 are directed to an invention that is independent or distinct from the invention originally claimed for the following reason: the medical device of the originally presented invention is distinct from and independent of the wound dressing of the newly presented claims.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 20-22 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3761

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-12, 14-16 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,470,585 ("Gilchrist").

Regarding claims 1-4, 6-12 and 14, Gilchrist discloses a medicinal substance for topical application. "The substance may be used for the treatment of wounds, catheter and tubing entry points, stoma sites and body passage entrances where bacterial growth and migration are rife" (Abstract). Gilchrist further discloses that in a particular embodiment wherein the silver containing glass is incorporated into silicon rubber (elastomeric polymer), that the rubber is then applied to the treatment area, for example, as a pad or collar. Catheter bodies, surface linings of cannulae, drainage tubes and the like, or superficial silicon coating of various instruments and appliances may be protected by the rubber (col. 7, lines 36-41). Gilchrist even further discloses that the glass, which contains elemental silver or a silver compound, can be incorporated in the adhesive of adhesive film dressings, in lint, wool, tow and gauze dressings and as part of wound management products such as foam, hydrogels and hydrocolloids, films, gels and creams (col. 3, lines 45-49).

As regards the resistance of the silver, the examiner contends that the silver in Gilchrist inherently has a resistance of less than about 1000 ohms/cm² since the silver in Gilchrist is the same silver in applicant's invention. The applicant should note that nothing in the specification discloses a chemical or physical alteration to the silver to distinguish it from the silver in Gilchrist.

Art Unit: 3761

The applicant should also note that the silver is **capable** of altering the electrodynamic process of the body to which it is applied.

Regarding claim 5, Gilchrist discloses the silver containing glass may be incorporated into silicon rubber (col. 7, lines 36-38).

Regarding claim 15, when incorporated into gauze, Gilchrist meets the limitations of the claim.

Regarding claim 16, note the rejection of claims 7-13 and 15, *supra*.

Regarding claim 19, the mere usage of the device as described in the rejection of claim 1, teaches the method as claimed.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 13, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilchrist.

Regarding claims 13, 17 and 18, Gilchrist fails to explicitly teach the device has a tubular shape, however, when incorporated in a drainage tube as a liner, the device will assume a tubular shape.

Art Unit: 3761

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is (703) 308-1191. The examiner can normally be reached on Mondays from 5:30 am to 4:00 pm.

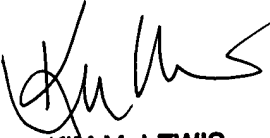
The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3590.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Application/Control Number: 09531245

Page 6

Art Unit: 3761



KIM M. LEWIS
PRIMARY EXAMINER

kml
June 10, 2002